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In re Application of
KOPCHICK et al.

Application No.: 10/563,832

PCT No.: PCT/US04/21944

Int. Filing Date: 08 July 2004

Priority Date: 08 July 2003

Attorney Docket No.: KOPCHICK8A

For: DIAGNOSIS AND TREATMENT
METHODS RELATED TO AGING (8A)

DECISION ON PETITION
UNDER 37 CFR 1.181

This decision is issued in response to applicant's "Petition to Vacate or to Correct PTO Records" filed 05 October 2006, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 08 July 2004, applicant filed international application no. PCT/US04/21944 which claimed a priority date of 08 July 2003. Pursuant to 37 CFR 1.495, the deadline for entry into the national stage in the United States expired 30 months from the priority date, on 09 January 2006. (08 January 2006 was a Sunday.)

On 09 January 2006, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia: the basic national fee; a copy of the international application; and an application data sheet.

On 24 February 2006, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond. (A copy of the Notification of Missing Requirements is attached for your convenience.)

On 24 April 2006, the above-identified application became abandoned for failure to reply in a timely manner to the Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 24 February 2006.

On 05 October 2006, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

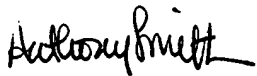
Applicant states that Notification of Missing Requirements mailed 24 February 2006 was not received. With regards to applicant's request that the holding of abandonment be withdrawn, a proper showing in order to establish that papers were not received as set forth in the Official Gazette at 1156 OG 53 must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement by the practitioner attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Applicant has satisfied items (1), (2), and (3) above.

CONCLUSION

For the reasons above, the request is **GRANTED**. The holding of Abandonment is withdrawn.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration along with the \$65 surcharge for filing the oath or declaration after the thirty-month period is required.



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Enclosure: Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 24 February 2006.